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Legislative Digest

Week of July 17, 2000 Vol. XXIX, #20, July 14, 2000

Monday, July 17

The House will meet at 12:30 p.m. for Morning Hour and 2:00 p.m. for Legislative Business
(No votes before 7:00 p.m.)

**** Seven Suspensions**

**** One Bill Under a Rule:**

Tuesday, July 18

The House will meet at 9:00 a.m. for Morning Hour and 10:00 a.m. for Legislative Business

**** Ten Suspensions**

**** One Bill Subject to a rule**

Wednesday, July 19 and the Balance of the Week

On Wednesday and Thursday the House will meet at 10:00 a.m. for Legislative Business
On Friday the House will meet at 9:00 a.m. for Legislative Business

⇨To be published in a future issue of the *Legislative Digest*

Eric Hultman: *Managing Editor*
Brendan Shields: *Senior Legislative Analyst*

Courtney Haller, Jennifer Lord
& Greg Mesack: *Legislative Analysts*

Legislative Digest

Internet Gambling Prohibition Act of 2000

H.R. 3125

Committee on the Judiciary
H.Rept. 106-655 Part I
Introduced by Mr. Goodlatte *et al*. on October 21, 1999

Floor Situation:

The House is scheduled to consider H.R. 3125 under suspension of the rules on Monday, July 17, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Highlights:

H.R. 3125 amends the federal criminal code to make it unlawful for a gambling business to use the Internet or any other computer service to: (1) place, receive or otherwise make a bet or wager; or (2) send, receive or invite information assisting in placing a bet or wager. The measure prescribes penalties associated with violating this law. H.R. 3125 also grants district courts original and exclusive jurisdiction to prevent violations of the bill, provides enforcement authority for violations committed on Indian lands, and authorizes limited injunctive relief against a provider.

The bill provides immunity for Internet service providers in return for their cooperation in addressing the use of their services for illegal activity. Specifically, (1) service providers are exempt from this act provided that upon being notified that their service is being used for Internet gambling they terminate access to that site, not knowingly permit their sites to be used for Internet gambling, and maintain a written policy of terminating sites that violate this bill; (2) providers are exempt from liability for content furnished by other people if providers follow certain guidelines; and (3) exceptions for certain Internet activities such as betting on legal horse and dog racing.

The Internet Gambling Prohibition Act states that no part of its language will be used to require an Internet Service Provider (ISP) to monitor material or use of its service, or, except when required by notice, to remove or disable access to material. The bill also requires the Attorney General to submit to Congress (1) an analysis of the problems associated with enforcing the bill; (2) recommendations for the best way to use Justice Department resources to enforce the bill; and (3) an estimate of the amount of activity and money being used to gamble on the Internet.

Background:

Over the last few years, gambling websites have proliferated on the Internet. A person living in the United States can now log on the Internet from his or her living room and participate in an interactive Internet poker game operated in Antigua. Internet gambling has brought gambling into the home, making it anonymous and readily available to virtually anyone at any time and at any place where there is an Internet hookup. Sites range from traditional casino games like video slot machines, poker, keno, Bingo, horse

racing and other sports, with most sites being located outside the United States. Earlier this year, a FBI study of the estimate 850 gambling websites reported industry growth from $300 million revenue in 1998 to $651 million in 1999. That is an eighty percent increase from 1998 and revenues are expected to reach $3 billion by 2002. Between 1997 and 1998, Internet gambling more than doubled, from 6.9 million to 14.5 million gamblers.

While online gambling is legal in many parts of Europe, Latin America, Australia, Asia and the Caribbean, it remains in a legal gray area in the United States where technology has outpaced state and federal laws. The legal issues include proving the age and eligibility of players, the possibility of rigged games and low pay-outs, credit card debt, software copyrights, and monitoring and regulating online gambling.

Online gambling has become a problem because it allows virtually instantaneous and anonymous communication that is difficult to trace to a particular individual or organization. This allows the operators of Internet gambling sites to successfully defraud their customers. The Internet also provides people with the opportunity to gamble at any time and from any place. Therefore, Internet gaming presents a danger to compulsive gamblers and can cause severe financial damage to an unsuccessful player. Due to the anonymity and availability of the Internet, it is also much more difficult to prevent minors from gambling. Internet gambling has gained great popularity in the past few years and is expected to continue its climb.

Provisions:

Definitions

Section 1085 (a) contains a number of definitions important to clarifying the bill's scope and intent.

Bets and Wagers are defined as "the staking or risking, by any person, of something of value upon the outcome of either: (1) a contest of others; (2) a sporting event; or (3) a game predominantly subject to chance" on the agreement that something of value is based on the outcome. Included in this is the purchase of lottery tickets over the Internet. This definition does not include: (1) legitimate business transactions governed by federal securities laws; (2) certain transactions governed by federal commodities laws; (3) contracts of indemnity guarantee; (4) contracts for some kinds of insurance; and (5) fantasy sports league games. The definition of bets and wagers also does not include Internet video games.

Closed loop subscriber-based services are defined as information services that meet a number of restrictions on use, including: (1) express State authorization of the particular customer and age verification system proposed to be used by the service, requiring the person within the state to register his or her name, address, appropriate billing information and physical location; (2) an effective age verification system authorized under state law; (3) appropriate date security standards to prevent unauthorized access to the system.

Foreign jurisdictions are defined as a foreign country or political subdivision thereof.

Gambling business is defined as (1) a business that is conducted at a gambling establishment, or that involves the placing, receiving, or otherwise making bets or wagers and has been in continuous operation for more than ten days or has a gross revenue of $2,000 or more from gambling business during any 24 hour period; and (2) any soliciting agent of such a business.

This definition contains a qualification that a gambling business involves one or more people who conduct, finance, manage, supervise, direct, or own all or part of such a business. The committee expressed its opinion that this qualification is intended to make it appropriate for law enforcement agencies to prosecute individuals less directly involved in illegal Internet Gambling business, such as silent financiers. This definition is not intended to include credit card companies or their cardholders.

Information assisting in the placing of a bet or wager includes information intended by the sender or recipient to be used by a gambling business to place, receive, or otherwise make a bet a wager. The definition does not include: (1) otherwise lawful state regulated parimutuel activities; (2) information exchanged via private network if it is used only to monitor gaming, device play, display prize amounts, provide security information and other accounting information; (3) new reporting or analysis of wagering activity; and (4) posting or reporting educational information on how to make a wager.

Interactive computer services, for the purpose of the bill, are any information service, system, or access software provider that operates in, or uses a channel or instrumentality of, interstate or foreign commerce to provide or enable access by multiple users to a computer server. Interactive computer service is intended to encompass all the interactive computer service functions defined in other parts of federal law. Under the bill interactive computer service providers are those who provide an interactive computer service defined above.

Internet, in this bill, is the international computer network of both federal and non-federal interoperable packet switched data networks. This definition, and that of interactive computer services, is intended to encompass technologies that in the future may perform functions similar to those that the Internet and interactive computer services perform today.

The bill also contains definitions for person, private networks, states, subscribers and soliciting agents.

Prohibitions and Penalties.

Section 1085(b) makes it unlawful for people to use the Internet or any other computer service to: (1) place or receive or otherwise make a bet or wager; or (2) send, receive or invite information assisting in placing a bet or wager. Penalties for violating this act include a fine equal to but not more than the greater of: (A) the total amount bet or wagered or placed, received, or accepted by the person; or (B) $20,000. The penalty can also be imprisonment of no more than four years, in lieu of or addition to any fine. These prohibitions apply only to people engaged in the gambling business, and not individual bettors or communication services not engaged in a gambling business, but simply used by illegal gambling businesses to offer the activity.

This section also provides for a court, upon conviction, to enter a permanent injunction preventing the person from placing, receiving, or making bets or wagers, or sending, receiving or inviting information assisting in bets or wagers.

Civil Remedies

Section 1085(c) allows district courts of the United States the jurisdiction to prevent and restrain violations

of the Internet Gambling Prohibition Act. The bill authorizes the United States, the Attorney General, or an appropriate state official to apply to a district court for a temporary restraining order or an injunction against a person to prevent violating this measure. This section also covers proceedings on Indian lands, and the expiration of temporary restraining orders.

Interactive Computer Service Providers

1085 (d) establishes a mechanism through which interactive computer service providers can be required to terminate accounts, and/or remove, disable, or block access to material or activity that violates the prohibitions in this bill. This section allows from limitations on criminal liability for qualifying providers whose services are being used by others and third parties to violate laws prohibiting Internet gambling, as long as the service provider meets certain qualifications under the law. These qualifications include the provider implementing a reasonable policy for terminating accounts of subscribers whom the provider is notified are being used to engage in and Internet gambling business, and not knowingly permit its computer server to be used to engage in the violation. Furthermore, this subsection establishes a "notice and takedown" regime in which law enforcement officials and service providers cooperate to remove or disable access to online sites that provide Internet gambling. Under this policy, if a provider is notified of that its service is being used to foster a gambling site, then it will expeditiously remove or disable access to the material. The bill establishes a similar regime for advertising used to promote illegal Internet gambling. This is not intended to force providers to prevent access to servers they do not control. An exception from criminal liability is also made for providers who make a "good faith" effort to comply with take down requests and injunctions in this subsection, and the section includes a subsection that makes clear that nothing under this bill requires providers to monitor material or use their networks to take down material except pursuant to a notice or court order.

Subsection (d) also allows federal or state law enforcement agencies to request an injunction, no less than 24 hours after notifying a provider of the material being offered through their service, forcing providers to remove or restrict access to materials of subscribers engaging in activities that violate this law, as well as other injunctive remedies that the court considers necessary and the least burdensome to the provider. Before issuing such and injunction the court must weigh several factors listed in the bill to determine whether the injunction is appropriate. These factors include: (1) whether the injunction would significantly burden the provider; (2) that the injunction in question is technically feasible and effective, and that it will not interfere with the access to lawful material at other locations; (3) whether less burdensome preventative measures are available; and (4) the magnitude of harm likely to be suffered by the community.

1085 (f) clarifies that the prohibitions of H.R. 3125 do not apply to: (1) the use of a "private network," (2) the use of facilities open to the public to place or bet wagers where a person must be physically present to place a bet or wager, or (3) compliance with federal lottery laws.

1085 (g) specifies that bill is not to be construed to affect any prohibition or remedy applicable to a person engaged in a gambling business under any other provision of federal law.

Report on Enforcement

Section three of the bill directs the attorney general to submit to Congress, no later than three years after enactment of the bill, a report including (1) an analysis of the problems associated with enforcing this bill, (2) recommendations for the best use of Justice Department resources to enforce the Internet gambling

prohibitions, and (3) an estimate of the amount of activity and money being used to gamble on the Internet.

Costs/Committee Action:

The CBO estimates that H.R. 3125 will have no significant impact on the federal budget.

The Judiciary Committee reported the bill by a vote of 21-8 on April 6, 2000.

Greg Mesack, 226-2304

Semipostal Authorization Act

H.R. 4437

Committee on Government Reform
No Report Filed
Introduced by Mr. McHugh *et al.* on May 11, 2000

Floor Situation:

The House is scheduled to consider H.R. 4437 on Monday, July 17, 2000 under suspension of the rules. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 4437 authorizes the Postal Service to sell 'semipostals,' which are a postage stamp issued and sold by the Postal Service at a premium in order to help provide funding for an appropriate matter of national interest (i.e., breast cancer). This gives the Postal Service the ability to issue such stamps without necessitating legislation by Congress. The premium rate is determined by the Postal Service board of governors, and can be up to the normal rate of postage plus a differential not to exceed 25 percent.

The funds raised will be transferred to an agency or agencies under arrangements made with the Postal Service. H.R. 4437 gives the Postal Service the authority to issue regulations, using the standard notice and comment method for rule making, necessary to carry out this measure. Also, the bill requires the Postal Service to include information about activities under the Semipostal Act in its annual reports, as well as requiring any agencies that receives funds from semipostal sales to submit annual written reports to congressional committees with jurisdiction over the Postal Service documenting: (1) the total funds received from semipostal sales; (2) how those funds were allocated; and (3) a description of any advances or accomplishments achieved from use of the funds. The bill also mandates that the GAO issue an interim report on the operation of the semipostal program four years after semipostals become available, as well as a final report to Congress six months before the program is scheduled to terminate. Finally, the legislation extends the existing authority to sell semipostals for breast cancer research to July 29, 2002, or for two years after this bill is enacted.

Background:

Two years ago Congress adopted a law allowing the Postal Service to issue "Stamp Out Breast Cancer" stamps that sold for forty cents. The money raised above the normal postage rate (thirty-three cents) is donated to breast cancer research. The idea has been very successful, and to date the stamp has raised over $12 million for breast cancer research activities, while also giving people the opportunity to express their support for this cause. The "Stamp Out Breast Cancer" stamp authorization is scheduled to expire July 28, 2000, and there have been calls to not only reauthorize the stamp, but to extend semipostals so that they can benefit other causes, such as AIDS research and education, diabetes research, domestic violence programs and more.

Costs/Committee Action:

At press time a CBO cost estimate was not available.

The Government Reform Committee reported H.R. 4437 by voice vote on June 29, 2000.

Greg Mesack, 226-2304

Designating The "Vicki Coceano Post Office Building"

H.R. 3985

House Committee on Government Reform
Introduced by Mr. Hastings (FL) on March 15, 2000

Floor Situation:

The House is scheduled to consider H.R. 3985 under suspension of the rules on Monday, July 17. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 3985 designates the facility of the United States Postal Service located at 14900 Southwest 30th Street in Miramar City, Florida, as the "Vicki Coceano Post Office Building." Any reference in a law, map, regulation, document, paper or other record of the United States to this facility shall be deemed to be a reference to the "Vicki Coceano Post Office Building."

Vicki Coceano served as Miramar City Commissioner in 1977 and Mayor in 1989, serving the people of Miramar for more than twenty years. Also, she served on many boards, at the federal, state, and county levels, including the Blue Ribbon Committee for Broward County Schools, the Area Agency on Aging, and the White House Conference on Aging. Focusing an interest on the youth, Vicki Coceano built a fund-raising campaign to build a youth center in Mimarar City, and has since been honored with the Spirit of Life Humanitarian Award.

Committe Action:

This bill was not considered by a committee.

Kimberly Torrence, 226-2302

Los Alamos National Laboratory

H.Res. 534

House Committee on Armed Services
Introduced by Mr. Spence *et al.* on June 27, 2000

Floor Situation:

The House is scheduled to consider H.Res. 534 under suspension of the rules on Monday, July 17, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.Res. 534 expresses the sense of the House that the security failures at the Los Alamos National Laboratory revealed to Congress on June 9, 2000, demonstrate the continued inadequacy of nuclear weapons security policy and procedures within the National Nuclear Security Administration and at the Administration's other nuclear research facilities. The individuals responsible for the implementation, oversight, and management of nuclear weapons security policy and procedures within the Administration and at its facilities must be held accountable for their performance. Finally, the resolution calls for the Administrator of Nuclear Security to take immediate action to improve procedures for the safeguarding of classified nuclear weapons information and correct all identified nuclear weapons security deficiencies within the Administration.

Recently, two computer hard drives containing a large quantity of sensitive classified nuclear weapons data at the Department of Energy's (DOE) Los Alamos National Laboratory, Los Alamos, New Mexico, were missing for an undetermined period of time, exposing them to possible compromise. The compromise of this data would constitute a clear and present danger to the national security of the Unites States and its allies.

In response to longstanding security problems with the nuclear weapons complex, Congress enacted the National Nuclear Security Administration (NNSA) with responsibility for the administration of programs for the national security applications of nuclear energy. The DOE reorganization concluded that the Department's plan to implement the provisions of that Act "taken as a whole appears to allow continued DOE authority, direction, and control over the NNSA and retain current DOE management, budget, and planning practices and organizational structures." The Secretary of Energy and the Director of the Office of Security and Emergency Operations of the DOE recognized the need to address nuclear weapons security problems and were responsible for nuclear weapons security policies and implementation of those policies while the computer hard drives were missing. The effective protection of nuclear weapons classified information is a critical responsibility of those individuals entrusted with access to that information. The committee reported the resolution by voice vote on July 12, 2000.

Kimberly Torrence, 226-2302

Small Watershed Rehabilitation Amendments

H.R. 728

Committees on Agriculture and Transportation
H.Rept. 106-484 Pt. I & II
Introduced by Mr. Lucas (OK) on February 11, 1999

Floor Situation:

The House is scheduled to consider H.R. 728 under suspension of the rules on Monday, July 17, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 728 adds a section to the Watershed Protection and Flood Act (*P.L. 566*) to authorize a five-year program to rehabilitate aging floodwater retention projects. Title I of the bill provides the Agriculture Secretary with the funds to provide financial assistance to local organizations for rehabilitation of local watershed initiatives, usually dams. The federal assistance is limited to 65 percent of total rehabilitation costs, but cannot exceed 100 percent of construction costs. The local organization is responsible for all water, mineral and resource rights, as well as obtaining all permits. Title I also: (1) authorizes federal assistance to local organizations in planning and implementing rehabilitation projects; (2) establishes an application process for local organizations to apply for assistance; (3) prohibits assistance from being provided if it is needed as a result of inadequate maintenance; and (4) instructs the Agriculture Secretary to conduct an assessment of the rehabilitation needs of covered water resource projects in states where the projects are located. The bill provides $90 million dollars over the period FY 2001-2005 to fund the project and requires the Agriculture Secretary to maintain a database to track the benefits derived from rehabilitation projects and submit an annual report to Congress on activities under the bill.

Title II of the bill directs the Secretary of the Army to inventory dams constructed by the Works Progress Administration, the Works Projects Administration, and the Civilian Conservation Corps (CCC) and assess the condition of the dams and their need for rehabilitation or modification. No later than two years after enactment of this measure the Secretary of the Army must give to Congress a report containing the inventory and assessments.

If during the inventory the Secretary of the Army determines that a dam presents an imminent and substantial risk to public safety the Secretary is authorized to carry out measures to mitigate the risk. Any federal funds to mitigate this risk cannot be more than 65 percent of total rehabilitation costs and cannot be spent on dams under the control of the Interior Department. The measure authorizes $25 million for expenses incurred under Title II of the bill.

Background:

Since 1948 over 10,000 small dams have been built and turned over to local authorities under the Flood

Control Act of 1944. Most of these structures are earthen dams with a useful life span of 50 years, but also included small farm ponds and large multipurpose reservoirs, and are now reaching the end of their useful life span. Thus, spillways, slide gates and stems of these dams have slowly deteriorated; though properly designed and maintained, sediment basins in many of the impoundments have filled in, providing less water storage, especially during storms. Currently the Secretary of Agriculture, under the National Resources Conservation Service, is authorized to provide technical and financial assistance to local organizations in planning and carrying out small watershed projects, but does not have the authority to begin a program to rehabilitate the NCRS dams that are not functioning as intended.

There has not been a recent inventory or assessment of this category of structures. A comprehensive inventory of these dams and other facilities will assist in determining their current status and the need for rehabilitation programs, as well as protect many of the communities that have grown around many of the World War II era dams.

Costs/Committee Action:

At press time, a CBO cost estimate was not available.

The Agriculture Committee reported H.R. 728 by voice vote on October 27, 1999 and the Transportation Committee reported the measure by voice vote on November 18, 1999.

Greg Mesack, 226-2304

Congratulating the Republic of Latvia on the 10th Anniversary of its Independence

H.Con.Res. 319

House Committee on International Relations
Introduced by Mr. Shimkus *et al.* on May 4, 2000

Floor Situation:

The House is scheduled to consider H.Con.Res. 319 under suspension of the rules on Monday, July 17. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.Con.Res. 319 resolves that Congress congratulates Latvia on the occasion of the 10th anniversary of the reestablishment of its independence and the role it played in the disintegration of the former Soviet Union. Also, Congress commends Latvia for its success in implementing political and economic reforms, which may further speed the process of that country's integration into European and Western institutions.

The United States has never recognized the forcible incorporation of the Baltic states of Estonia, Latvia, and Lithuania into the former Soviet Union. On May 4, 1990, the Republic of Latvia reestablished full sovereignty and independence as it further disengaged itself from the former Soviet Union. Since then, Latvia has successfully built a democracy, passed legislation on human and minority rights that conform to European and international norms, ensured the rule of law, developed a free market economy, and consistently pursued a course of integration into the community of free and democratic nations by seeking membership in the North Atlantic Treaty Organization (NATO). As a result of the progress of its political and economic reforms, Latvia has made, and continues to make, a significant contribution toward the maintenance of international peace and stability by, among other actions, its participation in NATO-led peacekeeping operations in Bosnia and Kosovo.

Committee Action:

H.Con.Res. 319 was reported by voice vote on June 29, 2000 by the House Committee on International Relations.

Kimberly Torrence, 226-2302

Condeming the 1994 Attack on the Jewish Community Center in Argentina

H.Res. 531

House Committee on International Relations
No Report Filed
Introduced by Ms. Ros-Lehtinen, *et al*. on June 23, 2000

Floor Situation:

The House is scheduled to consider H.Res. 275 under suspension of the rules on Tuesday, July 18, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H. Res. 531 condemns the 1994 attack on the AMIA Jewish Community Center in Buenos Aires, Argentina and urges the Argentine Government to punish those responsible. In addition, the bill calls on the President to raise this issue in bilateral discussions with Argentina and recommends that the United States Representative to the Organization of American States seek support from the countries comprising the Inter-American Committee Against Terrorism to assist in the investigation of this terrorist attack. If a request for assistance is made by Argentina, this resolution encourages the President to direct United States law enforcement agencies to provide investigative support and cooperation to the Government of Argentina.

On July 18, 1994, 86 people were killed and another 300 were wounded when the AMIA Jewish Community Center was bombed in Buenos Aires, Argentina. The six years following the bombing have been marked by acknowledged negligence, stonewalling and apparent anti-Semitism by Argentinian investigative and security forces. The Government of Argentina officially condemns terrorism, but the failure to duly punish the culprits of this act serves merely to reward these terrorists and helps spread the plague of terrorism throughout the world.

Cost/Committee Action:

The Committee on International Relations reported this bill by voice vote on June 29, 2000

John DeStefano, 226-2302

Marriage Penalty Tax Elimination Reconciliation Act (Resolving Differences with the Senate)

H.R. 4810

Committee on Ways and Means
H.Rept. 106-545
Submitted by Mr. Archer on July 10, 2000

Floor Situation:

On Thursday, July 13, 2000, the Rules Committee granted a rule waiving the two-thirds majority vote required to consider a rule on the same day it is reported. This rule will be applied to a special rule to be reported on Monday, July 17, 2000, allowing for consideration or disposition of any Senate amendments to H.R. 4810, the Marriage Penalty Tax Elimination Reconciliation Act of 2000.

Late on Friday, July 14, 2000, the Senate passed H.R.4810 by a vote of 59-39. Additional information regarding a rule and any amendments approved by the Senate will be available in a *Floor Prep* prior to floor consideration.

Summary:

As passed by the House, H.R. 4810 contains several initiatives to reduce the impact of the "marriage penalty" inherent in the tax code. Specifically, the bill provides $182.3 billion in marriage penalty tax relief over 10 years ($50.7 billion over five years) by changing the tax code in the following manner:

* **Increasing the Standard Deduction**. The measure increases the standard deduction for married couples to twice that of single taxpayers beginning in 2001, providing $66.2 billion in tax relief over 10 years. In 2000, the standard deduction amounts to $4,400 for single taxpayers but just $7,350 for married couples who file jointly (*e.g.*, were the bill effective in 2000, the standard deduction would amount to $8,800, double the $4,400 amount for singles).

* **Expanding the 15 Percent Tax Bracket**. H.R. 4810 increases the 15 percent tax bracket for married couples who file jointly to twice that of single taxpayers beginning in 2003, phased in over six years (providing $104.7 billion in tax relief over 10 years). Under current law, the 15 percent bracket covers taxpayers with taxable income up to $26,250 for singles and $43,850 for married couples filing jointly. If the measure were in effect today, married couples would pay the 15 percent tax rate on their first $52,500 of taxable income, instead of on their first $43,850 under current law.

* **Increasing the Earned Income Tax Credit**. Beginning in 2001, the bill increases by $2,000 the amount a joint-filing couple may earn before their earned income tax credit benefits begin to phase out. This provision provides $11.4 billion in tax relief over 10 years. The proposal increases EITC payments to existing family recipients and makes additional families eligible for the credit.

Married couples generally are treated as one unit that must pay taxes on the couple's total taxable income. Although they may elect to file separate returns, the rate schedules and other provisions are structured in

such a way that filing separate returns usually results in a higher tax than filing a joint return. Other rate schedules apply to single persons and to single heads of households.

Costs/Committee Action:

CBO did not complete a cost estimate for the bill. The Joint Committee on Taxation estimates for enactment of H.R. 6 are available at www.house.gov/jct/x-6/00.pdf and www.house.gov/jct/x-3-00.pdf

H.R. 4810 passed the House by a vote of 269-159 on July 12, 2000.

Other Information:

For information on H.R. 4810 as it was debated in the House, see *Legislative Digest,* Vol. XXIX, #19, July 10, 2000.

For information on H.R. 6 as it was debated in the House, see *Legislative Digest,* Vol. XXIX, # 2, February 4, 2000.

For information on H.R. 2488 as it was debated in the House, see *Legislative Digest,* Vol. XXVIII, #19, Pt. II, July 19, 1999; and #23, Pt. IV, August 4, 1999.

"Marriage and the Federal Income Tax," Testimony before the Ways & Means Committee by CBO Director June E. O'Neill, February 4, 1998; "Marriage Tax Penalties: Legislative Proposals in the 106th Congress," *CRS Report 98-679,* August 12, 1999; "For Better or For Worse: Marriage and the Federal Income Tax," *Congressional Budget Office* Study, June 1997; "Defining and Measuring Marriage Penalties and Bonuses," *Office of Tax Analysis,* Department of the Treasury, November 1999; Testimony by David Lifson from the American Institute of Certified Public Accountants before the Ways & Means Committee, January 28, 1998; "Overview of Conference Agreement for H.R. 2488," *Joint Committee on Taxation*, August 4, 1999; "Major Tax Issues in the 106th Congress: A Summary," *CRS Issue Brief 10013*, January 31, 2000.

Courtney Haller, 226-6871

The 1999 Unsolicited Electronic Mail Act

H.R. 3113

Committee on Commerce
House Rpt. 106-700
Introduced by Ms. Wilson on October 20, 1999

Floor Situation:

The House is scheduled to consider H.R. 3113 under suspension of the rules on Tuesday, July 18, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 3113 prohibits the transmission of unsolicited commercial electronic (UCE) mail messages (also known as spam) unless the initiator of that message provides a valid return electronic mail address and provides the recipient of such messages the opportunity not to receive future mailings. In addition, the bill allows Internet Service Providers (ISP) to enforce their own policy against spam messages. Specifically, they may sue the spammers in federal court for $500 per message (up to $50,000 and possibly up to $150,000 if a spammer willfully breaks the anti-spamming law) in damages. The measure authorizes the Federal Trade Commission to bring action against initiators of spam messages who operate in violation of the legislation's provisions. Finally, state or local laws that are inconsistent with the measure are preempted, except in the case of any civil remedy under state trespass or contract law or any federal, state or local law relating to acts of computer fraud and abuse arising from the unauthorized transmission of unsolicited commercial electronic mail messages.

Background:

The Internet has evolved into a powerful communication medium that allows individuals extensive opportunities to express ideas, share opinions, and receive information. The low cost of the World Wide Web has allowed it to become an easily accessible, integral tool in both domestic and international affairs. The Internet has opened international borders and empowered individuals to discuss and share their ideas in an open forum. A direct result of this new communication environment is the amazing growth of electronic commerce. Due to the tremendous efficiencies gained from electronic commerce, the Internet is now used to supplement or replace traditional commercial methods of communication.

One traditional commercial practice that has found a place on the Internet is electronic commercial solicitation. Unlike forms of commercial solicitation delivered via mail, electronic solicitation costs almost nothing to create and send. A natural byproduct of this method of advertising is unsolicited commercial electronic (UCE) mail messages, more commonly known as "spam". There are many consumer concerns regarding UCE mail messages. First, a great deal of these messages contain false or extremely misleading solicitations. Such messages threaten to undermine the confidence consumers have in electronic commerce by offering false information on anything from health cures to get rich quick schemes. Secondly,

many consumer advocates are concerned about the many UCE mail messages that contain adult material and can easily be accessed by children from a family computer.

Many ISP's have also expressed anxiety over UCE mail messages. Due to the fact that many UCE messages are sent in bulk, they clog network bandwidth and increase staff time, two very costly issues for ISP's. Many of these providers have already enacted spamming policies to affect the level of blame that is attributed to them regarding the emails their customers receive.

The mixture of privacy rights and First Amendment rights makes issues such as regulating UCE messages difficult to legislate. In a similar measure, Congress passed the Telephone Consumer Protection Act in 1991 to restrict automated telephone calls and unsolicited commercial fax messages. The constitutionality of this Act was upheld in the 1995 9th Circuit Court cases *Destination Ventures Ltd.* v. *FCC and Moser* v. *FCC.* The courts concluded in these cases that Congress had accurately identified automated telemarketing calls and unsolicited commercial fax transmissions as a threat to privacy and that banning the unsolicited fax transmissions was a reasonable means of reducing cost shifting.

Sixteen States have adopted laws to prohibit UCE messages, many restricting the transmission of bulk UCE messages that do not contain a label identifying the message as advertising or provide false and misleading information. The courts have found the laws of two States, California and Michigan, unconstitutional, claiming that they regulated interstate commerce, violating the Commerce Clause of the United States Constitution. Although these cases are still pending on appeal, these recent court decisions have forced many states to push for a federal measure.

Cost/Committee Action:

The Committee on Commerce reported this bill by voice vote on June 14, 2000.

CBO estimates that the FTC will spend about $13 million in 2001 and $11 million to $12 million annually in subsequent years (approximately $60 million over the 2001-2005 period) to implement H.R. 3113. However, the total costs of implementing H.R. 3113 could decline if the bill is effective in reducing the amount of unlawful UCE over time.

Brendan Shields, 226-0378
Sarah Buzby, 226-2302

Drug Addiction Treatment Act of 1999

H.R. 2634

Committee on Commerce
H.Rept. 106-441
Introduced by Mr. Bliley on July 29, 1999

Floor Situation:

The House is scheduled to consider H.R. 2634 under suspension of the rules on Tuesday, July 18, 2000. The bill is debatable for 40 minutes, may not be amended, and requires two-thirds majority vote for passage.

Summary:

H.R. amends certain portions of the Controlled Substances Act (21 U.S.C. 823) relating to registration requirements for practitioners who dispense narcotic drugs for maintenance treatment or detoxification treatment. It permits qualified physicians to treat their addicted patients, to speed up the approval of narcotic drugs for addiction treatment purposes, and offers the possibility of medical treatment for many Americans for whom other treatment programs are out of reach. The bill waives the current requirement that physicians obtain the prior approval of the Drug Enforcement Administration (DEA), receive the endorsement of state and local regulatory authorities and dispense only drugs pre-approved by the Food and Drug Administration (FDA). This new waiver process applies only to registered physicians qualified to dispense controlled substances or treat opiate-dependent patients.

The bill also includes a number of safeguards to prevent abuses of the waiver procedure. The Secretary of Health and Human Services may deny access to the waiver process for any drug the Secretary determines may require more stringent physician qualification standards or more narrowly defined restrictions on the quantities of drugs that may be dispensed for unsupervised use. Physicians face losing their registration status or even criminal prosecution for violations of the waiver process. After three years, the Attorney General and the Secretary may end availability of the waiver if they determine the process has had adverse public health consequences or to the extent is has led to violations of the Controlled Substances Act.

Background:

Opiate dependency is a growing problem in the United States. It is estimated that nearly 600,000 people need treatment for heroin addiction alone. In recent years, there has been a shift from the injection of heroin to snorting and smoking heroin. American teen-agers have been attracted to these new forms of heroin use on the mistaken belief that smoking or snorting heroin rather than injecting it is not addictive. Increased heroin use is associated with serious health conditions including spontaneous abortions, collapsed veins, and infectious diseases like HIV/AIDS and hepatitis. The costs of heroin use are difficult to measure

but the resulting family breakups, battering and abuse, neglect, malnutrition, violence, crime and deadly accidents demand more concrete action by the Congress. New and better treatments for heroin addiction under the rubric of the Controlled Substances Act is one approach.

The Controlled Substances Act constitutes most of the framework for the state and federal regulation of the manufacture and distribution of substances that are subject to abuse but are also used for medicinal purposes. There are five schedules (I-V) which assign substances to one of the five based on its potential for a abuse, addiction and medical use. Schedules III, IV or V contain substances being less addictive, while schedule I and II substances are subject to more abuse and thus are more highly regulated. Opiates, including heroin are in this category. Physicians that dispense Schedule I drugs must be registered with the DEA and are subject to increased security, record keeping and inspections. New drugs on the market place (like buprenorphine) have been successfully used in Europe as a treatment drug and are less addictive than methadone and other drugs. The new waiver process in H.R. 2634 will contribute to the use of these and other new treatment strategies for the thousands of opiate drug-addicted patients in this country and will allow registered practitioners to be better able to treat drug-addicted patients or those requiring opiates to treat unusual medical conditions.

Cost/Committee Action:

The Commerce Committee reported the bill by voice vote on November 11, 1999.

CBO estimates that the bill will cost $80 million over the period 2000-2004 (including $23 million in Substance Abuse and Mental Health Service Administration (SAMHSA) administrative costs and $30 million in increased Medicaid costs). The committee, however, disagreed with the assumptions made by the CBO and used its own calculations. The committee concluded that the costs of the bill would be $5 million per year for the period 2000-2004. (A complete discussion of the cost estimates can be found in the committee report at pp. 11-17 of H. Rept. 106-441).

Eric Hultman, 226-2304

The Military Extraterritorial Jurisdiction Act of 1999

H.R. 3380

Committee on Judiciary
H.Rept. 106-___
Introduced by Mr. Chambliss on November 16, 1999

Floor Situation:

The House is scheduled to consider H.R. 3380 under suspension of the rules on Tuesday, July 18, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 3380 amends federal law to establish criminal jurisdiction over offenses committed outside the United States by people employed by (i.e., contractors) or accompanying the United States armed forces. Additionally, the measure establishes federal criminal jurisdiction over offenses committed outside the United States by members of the Armed Forces. This includes people who commit crimes abroad while members of the Armed Forces but who are not tried for those crimes by military authorities and later cease to be subject to military control. The bill also authorizes designated military personnel to arrest people who commit these crimes and specifies when the people to be arrested are to be turned over to civil law enforcement officials.

The bill also sets forth procedures defining the government's power to forcibly remove a person arrested or charged with a crime under the bill to the United States. Finally, the bill provides procedures whereby certain initial proceedings that occur in connection with an investigation and prosecution of the new offense can occur by telephone or other electronic means before the defendant is brought to the United States.

Background:

It is apparent that there are numerous loopholes in today's law that allows dependents of members of the military, American contractors and foreign nationals employed abroad by the armed forces to commit crimes, but not be prosecuted for those crimes. Although host foreign nations have jurisdiction to prosecute crimes committed within their nation, they frequently decline to exercise jurisdiction when an American is the victim or when the crime involves only property owned by Americans. Also, numerous times, if a member of the armed services commits a crime that is not discovered until after the person has left the service, the criminal is no longer subject to the military Uniform Code. Therefore, crimes, such as sexual assault, arson, robbery, larceny, embezzlement, and fraud, currently do not permit the U.S. to exercise extraterritorial jurisdiction which creates a "jurisdictional gap" that, in many cases, allows the crimes to go unpunished.

Costs/Committee Action:

CBO estimates that enacting H.R. 3380 will not result in any significant cost to the federal government.

The Judiciary Committee reported the bill by voice vote on June 27, 2000.

Brendan Shields, 226-0378

International Patient Act of 1999

H.R. 2961

Committee on the Judiciary
H.Rept. 106-721
Introduced by Mr. Bensten on July 11, 2000

Floor Situation:

The House is scheduled to consider H.R. 2961 under suspension of the rules on Tuesday, July 18, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 2961 amends the Immigration and Nationality Act to authorize a three-year pilot program under which the Attorney General can extend the period for voluntary departure from the United States in the case of certain nonimmigrant aliens who require medical treatment in the United States, and were admitted under the Visa Waiver Pilot Program. This provision effectively allows these individuals to stay in the U.S. as long as necessary. An alien patient seeking a waiver must submit to the Attorney General (1) a detailed diagnosis statement from a physician, including the treatment being sought and the expected length of time the patient will be required to stay in the U.S.; (2) a statement from the health care facility containing an assurance that the patient's treatment is not being paid through any federal or state public assistance, that the patient's account has no outstanding balance, and that facility will notify the INS when the treatment is finished or the patient released; (3) evidence of financial ability to support the patient's day-to-day expenses while in the U.S. (including the expenses of any accompanying family member), and evidence that any patient or accompanying family member is not receiving any public assistance.

Waivers may only be granted on a request submitted by an INS district office to INS headquarters. No more than 300 waivers may be granted in any fiscal year and spouses, parents, brothers, sisters, sons, daughters, and other family members accompanying the patient may also receive a waiver. However, only one adult family member may be granted a waiver for each patient, a second if the patient is a dependent less than 18 years old. The INS Commissioner is directed to submit a report no later than March 30 every year regarding all waivers granted during the previous fiscal year. The authority to grant waivers will be suspended during any period when the report is past due and has not been submitted.

Background:

Currently, aliens who seek to visit the U.S. for temporary business or pleasure visits are admitted under either a B-1 business visa or a B-2 pleasure visa, which are both valid for one year and can be extended in six-month increments. The visa waiver pilot program allows aliens traveling from certain designated countries to come as temporary business or pleasure visitors for 90 days, without having to obtain a 'B' visa.

If an alien is admitted under the pilot program and has a compelling need to stay the only relief that can be offered is to have the Attorney General permit the alien to leave voluntarily after a specified amount of time at his or her own expense, in lieu of being placed in removal proceedings. However, the period of time in which the alien is allowed to depart cannot exceed 120 days. This allows a maximum of 210 days a nonimmigrant alien can stay under current law. This is adequate to deal with most emergency situations, but is does not meet the needs of a select few aliens who are admitted for medical reasons. H.R. 2961 is a response to this problem that allows stays of time where medical treatment is required.

Costs/Committee Actions:

CBO estimates that enacting this bill would affect direct spending in fiscal years 2000 through 2003, but that the cost would not be significant in any single year. Because the bill would affect direct spending, pay-as-you-go procedures would apply.

H.R. 2961 was reported by voice vote from the Judiciary Committee on July 11, 2000.

Greg Mesack, 226-2304

Designating United States Post Office Buildings

H.R.4430, 4157, 4517 and 4554

Committee on Government Reform
No Reports Filed

Floor Situation:

The House is scheduled to consider the following four bills under suspension of the rules on Tuesday, July 18, 2000. Each bill is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 4430 designates the facility of the United States Postal Service located at 11831 Scaggsville Road in Fulton, Maryland, as the 'Alfred Rascon Post Office Building'. Mr. Rascon, the son of Mexican immigrants, received the Medal of Honor from President Clinton commending him for his acts of bravery during the Vietnam War. On March 16, 1966, while assigned as a medic in the Vietnam War, Mr. Rascon repeatedly ran into heavy enemy fire in order to treat three men, saving two of them, despite his own personal injuries that occurred when a grenade exploded in his face. Mr. Rascon was recommended for the Medal of Honor within days of his battlefield bravery but never received it until the men he saved realized the oversight and sought to correct it in 1993. Mr. Rascon presently works as an inspector general of the Selective Service System in Arlington, Virginia. H.R. 4430 was introduced by Mr. Bartlett on May 11, 2000.

H.R. 4157 designates the facility of the United States Postal Service located at 600 Lincoln Avenue in Pasadena, California, as the 'Matthew "Mack" Robinson Post Office Building'. The late Mr. Robinson passed away on March 12, 2000 as a result of complications associated with diabetes. Mr. Robinson was a former Olympian, winning the 200-meter silver metal at the 1936 Olympic Games in Berlin. He was also the older brother of baseball Hall of Fame player Jackie Robinson. Mack Robinson was employed by the City of Pasadena for many years and contributed substantial time to various youth groups. H.R. 4157 was introduced by Mr. Rogan *et al.* on April 3, 2000.

H.R. 4517 designates the United States Postal Service located at 24 Tsienneto Road in Derry, New Hampshire, as the 'Alan B. Shepard, Jr. Post Office Building'. Alan Shepard was the first of America's astronaut heroes of the 1960's. He holds the distinction of being the first American to journey into space when he was launched in the Freedom 7 spacecraft on May 5, 1961. Shepard was also commander of the February 1971 Apollo 14 mission, and became the fifth person to walk on the moon as he spent over nine hours in a spacesuit on the lunar surface.

Born in 1973, Shepard was raised in East Derry, New Hampshire and went on to attend the United States Naval Academy where he received a Bachelor of Science degree. He began his postgraduate naval career on the destroyer COGSWELL deployed in the Pacific during World War II. He went on to enter

flight training at Corpus Christi, Texas, and Pensacola, Florida, and received his wings in 1947. His next assignment was with a Fighter Squadron at Norfolk, Virginia, and Jacksonville, Florida. With this squadron he served several tours aboard aircraft carriers in the Mediterranean. In 1950, Shepard attended the United States Navy Test Pilot School and upon graduation began test flying at various altitudes and obtained data and tested the development experiments of the Navy's in-flight refueling system, carrier suitability trials of the F2H3 Banshee, and Navy trials of the first angled carrier deck. H.R. 4517 was introduced by Mr. Sununu on May 23, 2000.

H.R. 4554 designates the United States Postal Service facility located at 1602 Frankford Avenue in Philadelphia, Pennsylvania, as the "Joseph F. Smith Post Office Building". Mr. Smith, a former Member of Congress, was born and raised in Philadelphia, Pennsylvania. He began his public service to the United States as a sergeant in the U.S. Army, receiving a Purple Heart for his bravery during World War I. He eventually served as a Pennsylvania State Senator for eleven years before his election to Congress in 1981. Always a friend to the City of Philadelphia and its citizens, Mr. Smith passed away in May of 1999. H.R. 4554 was introduced by Mr. Borski on May 25, 2000.

Sarah Buzby, 226-2302
John DeStefanon, 226-2302

National Right to Know Payroll Act

H.R. 1264

Committee on Ways and Means
No report filed
Introduced by Mr. Hoekstra *et al.* on March 24, 1999

Floor Situation:

The House is scheduled to consider H.R. 1264 under suspension of the rules on Tuesday, July 18, 2000. It is debatable for 40 minutes equally divided, may not be amended and requires a two-thirds majority vote for passage.

Summary:

H.R. 1264 requires employers to disclose their share of Social Security and Medicare taxes on an employee's annual W-2 form, effective for pay received after December 31, 2000.

Background:

The past 20 years has seen a stagnation of workers' real wages. As economists explored this trend, they discovered that increased numbers of government mandates have significantly eroded any increases in real wages. The mandates have significantly increased the costs employers spend to employ individuals and has been a major barrier to job creation.

Government studies demonstrate that compliance with government mandates can cost American firms nearly $700 billion a year (not including lost productivity or other indirect costs). Large firms are able to defray many of these administrative costs by spreading them among the entire work force. Small firms, with fewer employees, end up paying significantly more per employee for compliance, an average of $5,532 per year. Unfortunately, these costs hamper job creation for the nearly 90% of U.S. firms with less than 20 employees.

For example, an employee whose gross earnings are $27,200 costs his employer $30,954 in total expenses. There is a large disparity between the cost to the employer, $30,954, and the employee's take-home pay of only $22,434. This disparity represents the $8,521, or 28%, paid to the government for income tax, Medicare and Social Security benefits. Even more troublesome is that as the employee's gross earning rises, the contribution to government taxes and programs escalates to 38% at $60,000 a year gross pay.

Currently, W-2 forms only list the employee's contribution to these government mandates and programs hiding the costs of the employer's contribution. Recently, the Mackinac Center for Public Policy (http://www.mackinac.org/) designed The Right to Know Payroll Form to better inform voters of the full costs of these government mandates. This form itemizes and designates as 'government tax' or 'government cost' the cost to the employer, per employee, of workers' compensation and other government-mandated

programs. The increased information on employee's pay stubs will allow people to look at the numbers, see what the government costs him, and determine whether or not these services and benefits are a good deal.

Stagnant wages have become a major economic concern in this country. One of the primary causes of this stagnation is the expansion of taxes and government mandates, making it more and more expensive to keep employees on payroll. Thus, while total employee compensation costs have been rising, take-home pay has not. Unfortunately, raises in real wages have been crowded out by increased taxes and employer mandates, which are hidden and cannot be found anywhere on workers' pay stubs. Adopting the Right to Know Payroll form would make the tax burden more visible.

Cost/Committee Action:

H.R. 1264 does not affect direct spending, so pay-as-you-go procedures do not apply.

This bill was not reviewed by a committee.

Additional Information:

The Mackinac Center, www.mackinac.org; "State Employees' Pay Stubs to Show Employment Cost," *Detroit Free Press* Tuesday, May 7, 1996; "Right to Know Your Pay Stub," *The Grand Rapids Press* Sunday, July 7, 1996; "Publicize the Hidden Price Tag," *The Washington Times* Thursday, March 18, 1999; "The Hidden Burden of Taxation-How the Government Reduces Take-Home Pay," *Cato Policy Analysis No. 302* April 15, 1998.

Courtney Haller, 226-6871

Disapproving the Extension of Normal Trade Relations with China

H.J.Res. 103

Committee on Ways and Means
H.Rept. 106-
Introduced by Mr. Rohrabacher *et al.* on June 23, 2000

Floor Situation:

The House is scheduled to consider H.J.Res. on Tuesday, July 18, 2000. The Rules Committee is scheduled to meet on Monday, July 17 at 5:00 p.m. to grant a rule. Additional information regarding of the rule and any amendments made in order will be available in a *FloorPrep* prior to consideration by the House.

Summary:

H.J.Res. 103 disapproves the extension of Normal Trade Relations with China for another year, which was recommended by President Clinton on June 2, 2000, pursuant to section 402(c) of the Trade Act of 1974.

Background:

As part of the 1998 IRS Restructuring and Reform Act, Congress changed the designation "Most Favored Nation" to "Normal Trade Relations" (NTR). NTR status entitles producers from a specific country to pay the lowest tariffs available to any other trading partner for goods imported into the U.S. (tariff rates may vary from product to product). It is not preferential treatment; rather, it constitutes the standard U.S. policy for nondiscriminatory multilateral trade. Although the U.S. originally extended NTR status to all of its trading partners pursuant to the 1948 General Agreement on Tariffs and Trade (GATT), the 1951 Trade Agreements Extension Act required the president to withhold or suspend MFN from the Soviet Union and other communist-controlled countries that employ restrictive emigration policies.

Title IV of the Trade Act of 1974, which governs U.S. trade relations with communist countries and is commonly known as the Jackson-Vanik amendment, authorizes the president to waive the 1951 freedom-of-emigration requirements and extend NTR status to communist countries if doing so would "substantially promote" freedom of emigration in that country. The extension expires on July 2nd each year, but may be extended by the president on a year-by-year basis. While the House passed Permanent Normal Trade Relations with China (PNTR), H.R. 4444, on May 24, 2000, this legislation has yet to be enacted into law requiring the president to recommend another temporary extension of China's NTR status for another year, which occurred on June 2, 2000. On June 23, 2000, Representative Dana Rohrabacher introduced H.J.Res. 103 to disapprove the president's recommendation for another extension. This legislation must be considered by the House within 60 days of introduction.

NTR and China

President Nixon's historic visit to China in 1972 began an ongoing effort by the U.S. to integrate the People's Republic of China into the world community, first through diplomatic recognition and later through enhanced trade and cultural ties. The U.S. first granted NTR to China on February 1, 1980, and has extended it annually ever since.

During the early 1980s, granting NTR to China generated little controversy as the country instituted much-touted political and economic reforms promoted by its leader, Deng Xiaoping. However, after the brutal 1989 massacre of pro-democracy demonstrators in Tiananmen Square and the subsequent crackdown on political dissent throughout the country, China's human rights abuses have received increased attention and the annual NTR extension has been repeatedly contested. In recent years, Congress has attempted to terminate or condition NTR for China, but has either failed to muster the necessary majority for passage or has been unable to override presidential vetoes.

In 1993, when President Clinton renewed NTR for China, he issued an executive order laying out seven conditions—such as allowing free emigration for political dissidents, stopping the export of goods made by prison labor, and adhering to the International Declaration on Human Rights—for China to meet in order to receive any future extensions. However, the president reversed this policy when he decided to renew NTR for China in 1994, declaring his intention to "de-link" China's progress on human rights with its trading status.

The Policy of Engagement

As part of delinking human rights issues from NTR, the president outlined what he called a policy of "engagement" based on the premise that the U.S. will best be able to influence the growth of democratic and market-oriented policies in China through enhanced diplomatic and trade ties, which over time will bring a dramatic improvement in human rights.

In support of their argument, policymakers point to the success of engagement with similar Asian nations that have transitioned to true democracies, such as South Korea, Japan, and Taiwan. When the U.S. established diplomatic relations in 1972, they note, China was a rigid totalitarian state that relied on centralized market planning and government ownership of business. Today, after extensive economic liberalization initiated by Deng Xiaoping, non-state enterprises account for around 60 percent of Chinese output—and more government enterprises are privatizing each year. Trade and cultural ties have exposed many Chinese to America and its ideals, as Chinese students attend U.S. universities and as U.S.-China trade continues to climb. Mr. Deng's liberalization policies included some political reforms as well. Although the Clinton Administration remains deeply disappointed with China's human rights situation, it notes that the climate of personal and political freedom has improved markedly since the Cultural Revolution of the 1960s and early 1970s, when Maoist Red Guards unleashed a ghastly wave of show trials and mass-murder that paralleled the great purges of Stalinist Russia.

Furthermore, the Chinese government has made efforts to cooperate with the U.S. on both economic and regional security issues. It negotiated a first-ever agreement with the U.S. in 1995 to protect intellectual property rights and crack down on the piracy of American software, books, compact discs, and films;

although critics have argued that China has not done enough to enforce the agreement, the PRC has periodically closed down a number of pirate factories and awarded lawsuit claims to software and book publishers. China cooperated in ending the civil war in Cambodia and discontinued its support for the Khmer Rouge, as well as helped to negotiate an agreement with North Korea to get that country to stop its nuclear weapons development program. Because it is a nuclear power with the world's largest standing army, China is a pivotal player in Asian security issues. The president argues that damaging the U.S.-China relationship would hinder our ability to continue to enforce nuclear nonproliferation accords and to resolve territorial disputes in the South China Sea.

The U.S. has a strong economic interest in increased trade with China as well. With an economic output that the World Bank estimates will reach $10 trillion by early in the next century, China is on the path to becoming the largest economy in the world. The country is expected to augment its expanding economy with an extensive effort to rebuild its infrastructure, and will purchase over $750 billion of equipment for roads, power generating facilities, and transportation and communications systems over the next 10 years. Last year China bought nearly $13 billion worth of American goods; an estimated 200,000 American jobs depend on trade with China.

Because China is the second largest beneficiary of direct foreign investment after the U.S., trade backers argue that any attempt to limit U.S. trade with China will simply divert Chinese investment and trade opportunities to multinational corporations from Japan and Europe. Truly isolating China, they point out, is not an option because so many nations are competing to do business in that country's growing market. Furthermore, China no longer takes seriously any threats to revoke its NTR status, as Congress has been unable for over a decade to muster sufficient votes to take NTR away. This has led proponents of granting permanent NTR for China to argue that the annual NTR debate is no longer a useful tool for influencing the PRC's behavior.

Opponents Attack China NTR over Human Rights

While trade supporters trumpet how far China has come economically and how many improvements it has made in human rights since the 1970s, NTR opponents call attention to how many problems still exist and how far China has to go—so far, they argue, that the U.S. should be denouncing China rather than engaging it. Some critics note that, by the year's end, the trade deficit with China will stand at $63 billion, and others express concern about its high-technology military exports to Iran, Pakistan, and Burma. However, most base their stand on principled humanitarianism, telling story after story of harrowing human rights abuses on the mainland.

They cite evidence that the Chinese People's Liberation Army (PLA) administers an extensive nation-wide system of slave labor through the *Laogai*, the gulag-like prison labor camps that the army uses to manufacture a wide variety of commercial and industrial goods. The PLA sells these goods abroad, often as cheap exports to countries like the United States. It apparently uses the proceeds from these lucrative sales—together with profits from running hotels, construction companies, and investment firms in China—to finance its efforts to modernize China's rapidly growing military forces. Human rights monitors estimate that over six million Chinese are detained in the *Laogai*, and note that individuals can be forced to work many years in these labor prisons for minor offenses, are often imprisoned without due process, and sometimes are executed arbitrarily or worked to death. Scattered reports accuse the PLA of selling the organs of executed prisoners to patients needing transplants. The State Department has found no evidence to corroborate the charge, although it does not rule out the possibility that the practice occurs.

The *Laogai* system is just one component of China's troubled record on human rights, which includes the widespread use of torture and summary executions, unpublicized arrests, and secret trials and sentencing. In addition to arresting political dissidents, the Public Security Bureau has consistently persecuted religious minorities—such as Christians—using force to break up religious gatherings and holding priests and nuns in jail for years on end. China has long been criticized for its religious and ethnic persecution of the Tibetan people. After invading and annexing Tibet in 1951, and forcing the Dalai Lama—the Tibetan god-king—into exile in India, the Chinese government has mounted a fierce campaign to eliminate the Tibetans' tantric Buddhist culture, including the deportation of Tibetan children to other Chinese provinces for reeducation and the razing of ancient Tibetan monasteries. The mere display of the Dalai Lama's picture in Tibet can be cause for arrest. Small numbers of protesters are simply packed off to prison; large numbers have sparked bloody crack-downs—not only in Tibet, but in other remote provinces as well.

One of the most feverishly debated human rights issues is China's "one child per family" population control policy. Failure to comply with these strict limits can lead to fines or the denial of precious housing benefits. In some instances—particularly in minority-dominated areas—the government has imposed forced abortions and sterilizations. These policies have led to a marked increase in female infanticide, since peasant families eager to have a son may kill daughters in order to have another shot at making their "one child" a male.

The Clinton Administration continues to express displeasure with China's lack of any human rights progress—an embarrassment for the administration after its decision to delink NTR—and has repeatedly raised serious concerns over reported missile and nuclear technology sales to Pakistan and the sale of nuclear reactor technology and other weapons to Iran, including anti-ship cruise missiles. In the wake of India's and Pakistan's nuclear tests in June, such concerns have been expressed anew. China has also become more belligerent towards its neighbors in the last few years. In an attempt to intimidate Taiwan in March 1996, the PRC conducted major naval exercises off the Taiwanese coast during its election and fired missiles into the shipping lanes near its major port cities.

Certain actions by the U.S. have aggravated China as well. The U.S. continues to sell significant amounts of arms to Taiwan, including a $420 million sale in August 1996. The most aggravating to Chinese officials was the U.S. decision to allow an official visit by Lee Teng-hui, the president of Taiwan, to Cornell University (his alma mater) in May 1995; in retaliation, China recalled its ambassador to the U.S. for an indefinite period, canceled several high-level exchanges between U.S. and Chinese officials, and called off talks on missile technology controls. Many voices from across the political spectrum have called for an aggressive strategy of "containment" towards China, which has led Chinese leaders to view virtually every U.S. diplomatic move in Asia with suspicion, especially U.S. moves to normalize relations with Vietnam, a former enemy of the PRC.

Missile Technology Transfers

In addition to concern over human rights, critics of current China policy have raised the issue of national security—specifically, China's development of long-range nuclear missiles. The Justice Department is currently investigating a technology transfer to Communist China from U.S. aerospace companies involving two central issues: whether a technology transfer occurred which allowed the People's Liberation Army (PLA) to improve its Long March rockets; and whether the Chinese Government and the PLA funneled illegal campaign contributions into U.S. election campaigns in 1996. In 1998, House Speaker

Gingrich appointed Congressman Christopher Cox to head a select committee to investigate the national security implications of the sensitive missile technology transfer. Rep. Norman Dicks accepted assignment to the committee from Minority Leader Gephardt. The select committee is modeled after the committee used to investigate the Iran-Contra Affair.

In the wake of the Space Shuttle *Challenger* disaster in 1986, U.S. companies began using Chinese rocket launch services to place satellites into orbit. However, after the Tiananmen Square massacre and the discovery of Chinese missile technology transfers to Pakistan, Congress and President Bush levied myriad sanctions against the People's Republic of China in 1990 and 1991 that prohibited further technology transfers to that country, including satellite exports. However, these sanctions may be waived in instances where the president determines that it is in the national interest to do so. Since 1991, the sanctions have been waived 13 times—three times by President Bush and 10 times by President Clinton—for a total of 20 satellite launches in China.

The most recent concern regarding technology transfers to China regards a Justice Department investigation into actions taken by the Loral company in the wake of a failed satellite launch in 1996. Specifically, Justice investigators are trying to determine whether Chinese launch vehicles—Long March boosters that are also produced as China's DF-4 and DF-5A ICBMs—gained new accuracy and reliability as a result of Loral sharing its report analyzing the explosion. The Chinese conducted an independent investigation of the failure and concluded that the problem was a defective solder joint in the wiring—a "low-tech matter." Loral and its partner, Hughes Aircraft, transferred a report to China of its own investigation of the matter. The president of China Aerospace requested the disputed Loral report which was produced by a review panel chaired by a senior Loral executive. The report was provided to the PRC without consulting federal officials and violated Loral's internal clearance process. The transfer also violated licensing conditions requiring Pentagon monitors during transmission of any information.

A Strategic Partnership?

The period since the last extension of NTR status for China has seen a flurry of activity— both positive and negative—including the reversion of Hong Kong to Chinese rule and the transition of political power from the late Deng Xiaoping to China's current leader, Jiang Zemin. In October 1997, Mr. Jiang and President Clinton held a summit in Washington, D.C. In June of 1998, Clinton visited China, marking the first presidential visit there since the Tiananmen Square massacre in 1989. The two world leaders, in their effort to build a "strategic partnership," discussed issues ranging from human rights, nuclear proliferation, and environmental protection. Against the backdrop of the severe economic crisis currently roiling the Asia-Pacific region, issues of economics and trade came to the fore, since both nations have a significant stake in shoring up Asian economies.

The Asian economic crisis—which figured prominently in the uprising in Indonesia, and President Suharto's subsequent resignation—has become fodder for both sides of the debate. Proponents of granting China NTR status argue that revoking NTR will disrupt trade in the region and exacerbate Asia's economic woes. Opponents argue, however, that the economic crisis has impelled some Asian nations—Japan, for example—to pump out more exports, causing the U.S. trade deficit to swell to an unprecedented level. By year's end, opponents note, the trade deficit with China is expected to reach $63 billion.

Both supporters and opponents of extending NTR status for China agree on this: The PRC is an emerging world power and will substantively impact U.S. national security and economic interests—as well as those

of the Asia-Pacific region—in the 21st century. The central question remains, what is the best strategy for bringing about political and economic reform in China while securing our own national security and economic interests?

Cost/Committee Action:

H.J.Res. 103 does not affect direct spending, so pay-as-you-go procedures do not apply. The Committee on Ways and Means adversely reported the resolution by voice vote on July 13, 2000.

Additional Information:

"China—U.S. Relations," *CRS Report* IB98018; "Most-Favored-Nation Status of the People's Republic of China," *CRS Report* RL30225; "Beijing Warns of War for 'One China,' " Patrick Tyler, *The Guardian (London)*, January 25, 1996; "Satellite Maker Gave Report to China Before Telling U.S.," Jeff Gerth, *New York Times*, May 19, 1998; "Loral Denies Any Benefits In Return for Donations," Robert Suro, Juliet Eilperin, *The Washington Post*; "Gingrich Plans Panel on China and Clinton Tie," Alison Mitchell, *New York Times*, May 19, 1998; "Was Pentagon Opposition to China-Technology Squelched?," John Diamond, AP, May 19, 1998; "Justice Department Investigates Satellite Export Deal," Robert Suro, *The Washington Post*, May 17, 1998; "Clinton Urged to Delay China Trip," *AP*, May 19, 1998; "Clinton Defends 'Principled Pragmatic' Approach to China," Peter Baker, *The Washington Post*, June 12, 1998; and "Signs of Chinese Arms Sale Dismissed, Ex-Official Says," John Mintz, *The Washington Post*, June 12, 1998. "Sell Them Anything," Matthew Rees, *The Weekly Standard*, September 8, 1997, p. 25; "Administration May Approve Weapons Furnace Export to China," *Newsweek*, June 15, 1998, p. 6; "Documents Show Satellite Waiver Not Routine," *The Washington Post*, June 1, 1998, p. A13; "NSC Papers Trace Concerns on Export Waivers for China," *The Washington Times*, p. A10; "Red Scare," *U.S. News & World Report*, June 8, 1998, p. 20. "Most-Favored Nation Status and China: History, Current Law, Economic and Political Considerations, and Alternative Approaches," *CRS Report* 96-923E; "Direct Cost of Withdrawing China's Most-Favored Nation Status," *CRS Report* 96-904E; "China U.S. Trade Issues," *CRS Issue Brief* IB91121; "China-U.S. Relations," *CRS Issue Brief* IB94002; "Most Favored Nation Status of the People's Republic of China," *CRS Issue Brief* IB97039; "China: Possible Missile Technology Transfers," *CRS Report 98-485F*; "Asian Financial Crisis: Foreign Policy Interest/Options," *CRS Report 98-74F*. "Welcome to China, Mr. Clinton," *The Economist*, June 27, 1998, p. 17.

Courtney Haller, 226-6871

Russian-American Trust and Cooperation Act of 2000

H. R. 4118

Committee on International Relations
H.Rept. 106-668
Introduced by Ms. Ros-Lehtinen on March 29, 2000.

Floor Situation:

The House is scheduled to consider H.R. 4118 during the week of July 17, 2000. The Rules Committee is scheduled to meet on the bill at 5:00 p.m. on Tuesday, July 18, 2000. Additional information on the rule and possible amendments will be provided in a *FloorPrep* prior to consideration.

Summary:

H.R. 4118 prohibits the rescheduling or forgiveness of any outstanding bilateral debt owed to the United States by the Government of the Russian Federation until the President certifies to the Congress that the Government of the Russian Federation has ceased all its operations, removed all personnel from, and permanently closed the intelligence facility at Lourdes, Cuba. An amendment approved in the committee gives the president the authority to "waive the ban" if he feels it is in the interests of the United States.

Background:

The Russian intelligence facility in Lourdes, Cuba, is located 100 miles off the U.S. coast. It is the Federation's largest intelligence facility outside of Russia. The Russian government employs approximately 1,500 people to operate the 28 square-mile facility. The Russian Federation leases the facility from the Cuban government for an estimated $100 to $300 million per year. The base has many tracking dishes and contains its own satellite system. Some of the hardware at the facility is used to intercept U.S. telephone calls, faxes and computer communications. Some sources say the facility was used during the Gulf War to intercept strategic information.

In 1996, then Russian Federation President Boris Yeltsin ordered Russian Intelligence personnel to increase their espionage efforts in order to capture valuable trade secrets from the U.S. and other Western powers. Since then, Russia has spent over $3 billion operating and modernizing its facility in Lourdes, Cuba. In December of 1999, a delegation of Russian military leaders headed by Deputy Chief of the General Staff Colonel-General Valentin Korabelnikov visited Cuba to discuss the maintenance and expansion of the Lourdes facility with the Cuban Government.

In August 1999, creditor countries agreed to reschedule payments on Soviet-era debts coming due between July 1, 1999, and December 31, 2000. Rescheduling those payments would increase the likelihood that the debt would be repaid. Under that 1999 agreement, the United States would create a new debt instrument out of the $496 million due on World War II lend-lease loans and agricultural commodity credits extended to the Soviet Union before December 31, 1991. That amount plus interest would be

repaid over the 2001-2020 period. The United States has not yet signed the bilateral accord with Russia that would implement the multilateral agreement.

Costs/Committee Action:

CBO estimates the additional reporting requirement would cost less than $500,000 a year. Although the other budgetary impacts of enacting the bill are highly uncertain, CBO estimates that they would not be significant. Because the bill could affect direct spending and receipts, pay-as-you-go procedures would apply.

The CBO assumes that the President would use his waiver authority for Russian loans. In that case, the bill would not affect direct spending or receipts. If not, the United States would be unable to reschedule Russia's debts under the bill. Not rescheduling Russia's debts would increase net outlays from the forgone payments due upon signing of the bilateral agreement. A Russian default on its lend-lease loans could affect governmental receipts.

The Committee on International Relations reported the bill by voice vote on June 12, 2000.

Jennifer Lord, 226-7860

The Comprehensive Retirement Security and Pension Reform Act of 1999

H.R. 1102

Committee on Ways and Means
H.Rept. 106-
Introduced by Mr. Portman *et al.* on September 24, 1999

Floor Situation:

The House is scheduled to consider H.R. 1102 during the week of July 17, 2000. The Rules Committee is scheduled to meet on Tuesday, July 18th at 5:00 p.m. to consider a rule for H.R. 1102. Additional information regarding the rule and any amendments made in order will be available in a *FloorPrep* prior to consideration by the House.

Summary:

H.R. 1102 addresses the retirement savings gap by expanding small business retirement plans, allowing workers to save more, addressing the needs of an increasingly mobile workforce through portability and other changes, making pensions more secure, and cutting the red tape that has hamstrung employers who want to establish pension plans for their employees.

Background:

Typically, a retiree gets 40% of his or her income from Social Security, 19% from employer-provided pensions, 18% from personal savings, and 20% from earnings. With only a third of the total workforce currently paying into 401(k) accounts and the first negative national personal savings rate in over 66 years, a large number of baby boomers may be left unprepared for retirement. Unfortunately, this problem is compounded by the fact that half of all private sector employees are without pension coverage.

Beginning in 1974, the federal government started regulating defined benefit (DB) pension plans increasing the cost of benefit administration. Inadvertently, these increased costs associated with administration may have thwarted pension coverage growth. Currently, DB plans are widely available to public employees and employees in large firms, but remain too costly for most small firms to offer to their employees.

DB plans are designed for employees who worked most, if not all, of their career with a single employer. As a result, DB plans have been based on an individual's final salary with the firm. In today's job market, few employees believe they will remain in career-long jobs, and thus there is diminishing interest in DB plans and increasing interest in defined contribution (DC) plans. DC plans are gaining appeal because the value at retirement age is based solely on amounts contributed and investment earnings. In keeping pace with today's work force, many employers have recently converted DB plans to "cash balance" plans, which allow departing workers to take lump-sum distributions with them if they leave the firm prior to

retirement age.

The most common type of DC plan is the 401(k) plan, which is easier to administer and not dependant on a long career with one firm. Additionally, 401(k) plans generally leave participation and investment choices to the employees. By assigning responsibility to the individual, 401(k) plans yield returns that vary widely when compared to wages. However, there is concern about participation rates for younger and lower-paid workers, who are less likely to contribute to these plans. These circumstances and asset liquidity concerns may lead to more conservative investments, resulting in lower rates of return than a DB fund manager.

While Federal law does not require private employers to offer qualified retirement plans, those that do so must comply with the Employee Retirement Income Security Act (ERISA) of 1974 (P.L. 93-406) and the Internal Revenue Code. ERISA establishes standards for coverage, funding, vesting of benefit rights, fiduciary responsibilities, and information disclosure. The tax code contains requirements a plan must meet to qualify for tax preferences. Tax law limits contributions and regulates benefit distributions. These tax rules limit the revenue foregone and assure that tax-advantaged plans help workers broadly and fairly.

During the 1980's, Congress made revisions to the tax code aimed at cutting budget deficits that lowered contribution and benefit limits and inadvertently complicated pension rules. Tax deferred plan contributions and investment earnings amount to the largest federal "tax expenditure," so modest changes to these rules can yield immediate revenue gains. In an effort to simplify these pension rules and expand participation, the Small Business Job Protection Act of 1996 (P.L. 104-188) was enacted. This allowed for the establishment of SIMPLE retirement accounts; "safe harbor" 401(k) plans that automatically satisfy non-discrimination testing; faster vesting requirements (from 10 to 5 years for certain plans); and nonprofit organizations were once again allowed to start 401(k) plans after a 10-year hiatus.

Provisions:

IRAs. The current IRA contribution limit of $2,000 a year is increased to $5,000. This increase is phased in, $1,000 a year, over three years beginning in 2001 and ending in 2003 at which time the contribution limit would be $5,000 a year. Additionally, the contribution limits are indexed to inflation. (The current $2,000 contribution limit has not been increased since 1981).

Taxpayers that are 50 and older are allowed to contribute up to $5,000 a year beginning immediately in 2001, allowing these older Americans to make "catch up" contributions for retirement.

Pension Reform. The bill contains over 50 provisions designed to improve retirement security (generally the same package that was included in H.R. 2488, the Taxpayer Refund and Relief Act of 1999, and H.R. 3081, the Small Business Tax Fairness Act of 2000). The package permits:

* Increased contribution and benefit limits in tax-favored retirement plans
* Additional salary reduction "catch up" contributions for workers age 50 and over
* Reduced vesting requirements for employer matching contributions
* Increased portability of retirement plan assets making it easier for employees to roll over assets when they change jobs
* A simplified pension system to encourage small businesses to offer pension plans

* $5,000 "catch-up" contributions to 401(k) plans
* Phased-in increases in the limit on salary reduction contributions to 401(k) plans reaching $15,000 in 2005
* Raising the limit on deductions to certain types of defined contribution plans to 20% of compensation

Cost/Committee Action:

The Joint Committee on Taxation (JCT) estimates that the bill would reduce federal tax revenues by $16.1 billion over the 2000-2005 period.

H.R. 4843 was reported from the Committee on Ways and Means on July 13, 2000, by a vote of 27-9. (H.R. 4843 will serve as base text for H.R. 1102 when the legislation comes to the Floor).

Additional Information:

"Pension Plans Offered by Private Employers: Legislative Issues in the 106th Congress," *CRS* IB10028, May 25, 2000; "House to Consider Bill Raising Pension Contribution Limits," *The Associated Press*, July 12, 2000; "Employment-Ways and Means Signs Off on Pension Bill After Disagreements," *CongressDaily AM*, July 14, 2000; "Employment & Labor-Panel Gives Bipartisan Boost to Retirement Savings Bill," *CQ Daily Monitor*, July 14, 2000.

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